

# Meeting Minutes

## September 19, 2002 Prevailing Wage Advisory Committee

### Attendees:

- 1. Prevailing Wage Business and Labor Committee Members.** Kathleen Garrity (Associated Builders and Contractors), Roger Boatwright (Building Trades Council).
- 2. Public Agency Participants.** Dave Mariano ( WSDOT Construction), Greg Mowat (Sound Transit), and Larry Schofield (WSDOT Highways & Local Programs).
- 3. L&I Staff.** Joel Sacks, Ernie LaPalm, Rich Ervin, Jim Christensen, Cindy Hanson, Todd Baker, Kathy Kimbel, Doug Mathers, Steve Benfield, Dennis Yonker
- 4. Other Participants.** Dick Springer, Jerry Boen, Ron Roberts, Paul Ingham, Darren Konopaski, Earl Smith, Miriam Israel Moses, Dave O'Meara, Philip Lindquist.

Agenda Item	Discussion	Action	Date Due
Opening Remarks	<p>Rich Ervin opened the meeting, introducing department staff and the new director of Rebound, Miriam Israel Moses. Rich announced that the Prevailing Wage Advisory Committee minutes, Prevailing Wage &amp; Hour Surveys completed and planned (as of 5/21/02), and the Draft Prevailing Wage Rule Making Plan have been posted on the Internet and can be found on the Employment Standards Home Page. They will eventually be moved to the Prevailing Wage Home Page.</p> <p>The Committee meeting scheduled for the next 12 months will be posted on the Internet in the near future.</p>	Meeting schedule for Committee meetings need to be posted on the internet.	10/16/02
Review and Approve Minutes From last Meeting (6/27/02)	Minutes were read and approved without any recommended changes.		
Presentation/ Discussion re Registered vs. Independent Contractor issues & Industrial& Insurance	<p>Kathy Kimbel, Program Manger, Employer Services, Doug Mathers, Chief Auditor, and Steve Benfield, Field Audit Trainer, attended the meeting and provided an overview of the Employer Services Program; specifically, the Field Audit Section. Kathy and her staff had scheduled a meeting with representatives from the Building Trades to address their concerns regarding firms involved in the construction industry who inappropriately treat workers as independent contractors when in actuality they may be workers under the industrial insurance law. Because this meeting had been scheduled at the same time as the Advisory Committee meeting, the two meetings were combined. Doug and Steve described what criteria is used by the auditors to determine whether or not</p>		

	<p>an independent contractor is actually a worker and covered by industrial insurance. Their presentation covered an overview of RCW 51.08.180 and the six-part test described in RCW 51.08.195. The group was provided with three common scenarios where they have found independent contractors to be determined workers and covered under industrial insurance.</p> <p>Kathy explained how Employer Services handles complaints of this nature and the referral/assignment process, stating that the Tumwater office will review records and determine whether or not there is sufficient information to refer the account out for an audit. Referrals are assigned out of Central Office (Tumwater) to the 22 regional offices.</p> <p>A question was asked at what point after a complaint is filed with the department can the complainant or interested party receive a status report on their complaint and the results of the audit. Kathy explained that the department is not able to disclose any findings during the course of an investigation/audit. Once an audit report has been concluded it can be released if the audit report is requested as a public record, although confidential employer information is redacted.</p> <p>Kathy said she wanted to check with our public disclosure office as to what and when information can be provided after a complaint is received, but prior to it being assigned for audit. Kathy has been advised that <u>until an audit has begun, the department is only able to advise a complainant that their information is being reviewed to determine if action should be taken. Once the audit has begun, and the employer is aware of the audit, the department can advise that an audit is in progress and the findings will be detailed in the auditor's report once the audit has concluded.</u></p> <p>There was a discussion regarding the different definitions of employee/worker and contractor as set forth in the various statutes governing the Department's programs and whether or not a "universal" definition could be established that would apply to all statutes.</p>		
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Update on Wage Survey Activity	Jim Christensen reviewed the prevailing wage and hour surveys that have been completed and planned as of 5/21/02. The information provided by Jim can also be found on the Internet (Employment Standards Home Page). Jim said that the department is committed to staying on schedule, and that if necessary the department would come up with the necessary recourses to continue to meet the survey schedule		
Significant Case Review	Due to time constraints, this agenda item was moved to a future meeting.		
Confirm dates for Upcoming meetings	Next meeting will beheld, Thursday, December 19, 2002, from 9:00 AM to 11:30 AM at Labor and Industries Tumwater, Room S 119  The first meeting of 2003 will be on Thursday, March 20. A suggestion was made that this meeting be held at the department's Tukwila Service location. This will be discussed at the next meeting.		
Subject matters for December meeting	Update on Legislative report (2304). Follow-up on positing requirements and enforcement action. Update on rule development plan (.018, etc.). Modular Construction discussion. Overview of process for investigating a complaint. Discussion on counties with no response rate. Significant Case Review		